IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

LPA No.16 of 2007

Date of decision: **27.6.2007**

Union Bank of India Appellant

Versus

B.L. Negi Respondent

Coram:

The Hon'ble Mr. Justice Deepak Gupta, A.C.J.

The Hon'ble Mr. Justice *V.K. Ahuja, J.*

Whether approved for reporting[1]? No.

For the appellant: **Mr. N.K. Sood with Mr. Aman Sood, Advocates.**

For the respondent: ...

Per Deepak Gupta, A.C.J.(Oral):

The only challenge made in this appeal directed against the judgment passed by the learned Single Judge in writ proceedings is to the direction given by the learned Single Judge that the respondent - employee be afforded an opportunity of personal hearing at the time of reconsideration of his appeal.

The facts in brief are that the petitioner was dismissed from service. He filed an appeal which was disposed of by the appellate authority vide order dated 31.7.2002 which was impugned in the writ petition. The learned Single Judge came to the conclusion that the said order is not a reasoned order and as such, not in

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[1] Whether the reporters of Local Papers may be allowed to see the Judgment? Yes.

accordance with the Regulation 17 of the Union Bank of India Officer Employees' (Conduct) Regulations, 1976. He, therefore, set aside the order and directed the appellate authority to rehear the appeal. He further ordered that while doing so, the petitioner (respondent – employee) shall be afforded an opportunity of personal hearing.

Mr. N.K. Sood has vehemently contended that no such directions could have been issued. He has cited certain case law also and copies of the judgments of the Apex Court as well as the High Court of Kerala and Madras have been annexed with the appeal. As far as the decision of the Kerala High Court in O.P. No. 18696 of 2001, which was set aside in W.A. No. 3063 of 2002 which order was affirmed by the Supreme Court in SLP is concerned, the dispute therein was that the writ Court had set aside the order of the appellate authority on the ground that the employee had not been given personal hearing in the matter. The question whether the Court could give such a direction or not was not the question raised in that case.

The Madras High Court in Writ Appeal No. 1605 of 2006 has held that when there is no provision for giving an oral hearing to the appellant, the Court should also not pass an order giving him personal hearing since it may be used as a precedent in subsequent cases. It was in the facts of that case that the Court held that there were no necessity to give any personal hearing to the writ petitioner. As far as the present case is concerned, the order of the appellate authority was set aside on the ground that it was an unreasoned order and the various points raised by the

petitioner in his appeal had not been considered by the appellate authority. The learned Single Judge exercising his writ jurisdiction gave direction that the petitioner may be given an opportunity of personal hearing. This direction cannot be said to be unjust or illegal. This direction has not been issued pursuant to any rules of the bank but only in the exercise of writ jurisdiction. We do not understand why the bank is shy of giving a personal hearing to the petitioner. This is a direction given in the specific circumstances of the case and cannot be treated as a binding precedent. Further we would like to clarify that the order of the learned Single Judge gives a right of personal hearing to the employee and he is not entitled to engage the service of any lawyer nor can he ask any official to represent him. It is only the employee who has to be given a personal hearing. We do not find any illegality in this order. We, therefore, find no merit in the appeal, which is accordingly rejected. We however, modify the order and extend the time period for deciding the appeal till **30th September, 2007**.

CMP No. 395 of 2007:

In view of the orders passed in the main appeal, this application stands disposed of.

(Deepak Gupta),A.C.J.

June 27, 2007
(BSS)

(V.K. Ahuja),
Judge